

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-62405-CIV-SINGHAL

FERDINAND DIAZ,

Plaintiff,

v.

TRANSUNION, LLC,
EQUIFAX INFORMATION SERVICES, LLC,
EXPERIAN INFORMATION SOLUTIONS, INC.,
VERIZON WIRELESS SERVICES, LLC,

Defendants.

ORDER

THIS CAUSE is before the Court on the Notice of Voluntary Dismissal without Prejudice as to Defendant Verizon Wireless Services, LLC (DE [24]). The claims against the remaining Defendants are not dismissed.

The Eleventh Circuit has held that Fed. R. Civ. P. 41(a)(1) is not the appropriate mechanism for dismissal of fewer than all claims asserted in a lawsuit. *See Perry v. Schumacher Grp. of La.*, 891 F.3d 954, 958 (11th Cir. 2018). The court reasoned that the Rule only permits dismissal of an “action” and, therefore, a plaintiff cannot voluntarily dismiss a portion of a claim while pursuing other claims in the action. *Id.* The proper procedure for dismissing a portion of claim is to file an amended complaint. *Id.* But *Perry* did not address whether a plaintiff can voluntarily dismiss all claims against a single defendant while pursuing claims against the remaining defendants.

At least one district court has considered the issue and found that “*Perry* did not explicitly overrule longstanding precedent that the Court has the authority to dismiss all claims against a defendant under Fed. R. Civ. P. 41 even if there are other defendants in

the case.” *Pritchett v. BP America Production Company*, 2022 WL 17650529, at *1 (S.D. Ala. Dec. 13, 2022) (citing *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1106 (11th Cir. 2004) “[Rule 41 allows a plaintiff to dismiss all of his claims against a particular defendant....”))). Thus, the court held that “it may still dismiss all claims against a single defendant in a multi-defendant action under Fed. R. Civ. P. 41(a)(2) when requested by a plaintiff.” *Id.* at *2 (emphasis in original). This Court agrees. Accordingly, it is hereby

ORDERED AND ADJUDGED that this cause stands **DISMISSED WITHOUT PREJUDICE** as to Defendant Verizon Wireless Services, LLC only, with each side to bear its own costs and attorney’s fees.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 22nd day of March 2024.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF